BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

LILIA NAVA Claimant	}
VS.))) Docket No. 210,642
SUPERIOR BUILDING MAINTENANCE Respondent)
AND	,
CONTINENTAL NATIONAL AMERICAN GROUP Insurance Carrier	,

ORDER

Claimant requested review of a preliminary hearing Order dated April 22, 1996 entered by Administrative Law Judge John D. Clark on behalf of Administrative Law Judge Nelsonna Potts Barnes.

ISSUES

The Administrative Law Judge denied claimant's request for workers compensation benefits. The issue now before the Appeals Board is whether claimant sustained personal injury by accident arising out of and in the course of her employment with the respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for purposes of preliminary hearing the Appeals Board finds as follows:

The preliminary hearing Order of the Administrative Law Judge should be affirmed.

On January 23, 1996, claimant injured herself when she slipped and fell on an icy sidewalk while exiting an office building where she was assigned to work by the respondent, a contract cleaning service. At the time of the accident, claimant and her coworker had permission from their supervisor to go to the parking lot to warm up the coworker's car. The accident occurred at 2:10 a.m., approximately 20 minutes before the end of claimant's shift.

Claimant contends her injury arises out of and in the course of her employment with the respondent because it was reasonable to allow claimant to accompany her coworker

to the parking lot to protect her from potential danger. Claimant also contends the "going and coming" rule under K.S.A. 1995 Supp. 44-508(f) does not apply as claimant was where she might reasonably be expected to be while performing her work.

Based upon the evidence presented to date, the Appeals Board finds that claimant has failed to prove her accident arose out of and in the course of her employment with the respondent. The evidence fails to establish it is more probably true than not that claimant was to accompany her coworker to the parking lot for safety reasons. Further, the evidence otherwise fails to establish the accident happened in an area under respondent's control where claimant could reasonably be expected to perform her duties.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge John D. Clark dated April 22, 1996, should be, and hereby is, affirmed.

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Dated this day of June 1996	
BOAR	D MEMBER
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c: Joseph Seiwert, Wichita, KS Christopher J. McCurdy, Wichita, KS Nelsonna Potts Barnes, Administrative Law Judge Philip S. Harness, Director

IT IS SO ORDERED